

(iv) Distribution of samples of smokeless tobacco under paragraph (d)(2) of this section permitted to be taken out of the qualified adult-only facility shall be limited to one package per adult consumer containing no more than 0.53 ounces (15 grams) of smokeless tobacco. If such package of smokeless tobacco contains individual portions of smokeless tobacco, the individual portions of smokeless tobacco shall not exceed eight individual portions, and the collective weight of such individual portions shall not exceed 0.53 ounces (15 grams). Any manufacturer, distributor, or retailer who distributes or causes to be distributed free samples also shall take reasonable steps to ensure that the amounts in this paragraph (d)(2)(iv) are limited to one such package per adult consumer per day.

(3) Notwithstanding paragraph (d)(2) of this section, no manufacturer, distributor, or retailer may distribute or cause to be distributed any free samples of smokeless tobacco:

(i) To a sports team or entertainment group; or

(ii) At any football, basketball, baseball, soccer, or hockey event or any other sporting or entertainment event determined by the Secretary to be covered by paragraph (d)(3) of this section.

(4) The Secretary shall implement a program to ensure compliance with paragraph (d) of this section and submit a report to the Congress on such compliance not later than 18 months after the date of enactment of the Family Smoking Prevention and Tobacco Control Act.

(5) Nothing in paragraph (d) of this section shall be construed to authorize any person to distribute or cause to be distributed any sample of a tobacco product to any individual who has not attained the minimum age established by applicable law for the purchase of such product.

(e) *Restrictions on labels, labeling, and advertising.* No manufacturer, distributor, or retailer may sell or distribute, or cause to be sold or distributed, cigarettes or smokeless tobacco with labels, labeling, or advertising not in compliance with subpart D of this part, and other applicable requirements.

## Subpart C [Reserved]

## Subpart D—Labeling and Advertising

### § 1140.30 Scope of permissible forms of labeling and advertising.

(a)(1) A manufacturer, distributor, or retailer may, in accordance with this subpart D, disseminate or cause to be disseminated advertising or labeling which bears a cigarette or smokeless tobacco brand name (alone or in conjunction with any other word) or any other indicia of tobacco product identification, in newspapers; in magazines; in periodicals or other publications (whether periodic or limited distribution); on billboards, posters, and placards; in nonpoint-of-sale promotional material (including direct mail); in point-of-sale promotional material; and in audio or video formats delivered at a point-of-sale.

(2) A manufacturer, distributor, or retailer intending to disseminate, or to cause to be disseminated, advertising or labeling for cigarettes or smokeless tobacco in a medium that is not listed in paragraph (a)(1) of this section, shall notify the agency 30 days prior to the use of such medium. The notice shall describe the medium and discuss the extent to which the advertising or labeling may be seen by persons younger than 18 years of age. The manufacturer, distributor, or retailer shall send this notice to the Office of Compliance, Center for Tobacco Products, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD, 20850-3229.

(b) [Reserved]

(c) This subpart D does not apply to cigarette or smokeless tobacco package labels.

### § 1140.32 Format and content requirements for labeling and advertising.

(a) Except as provided in paragraph (b) of this section, each manufacturer, distributor, and retailer advertising or causing to be advertised, disseminating or causing to be disseminated, any labeling or advertising for cigarettes or smokeless tobacco shall use only black text on a white background. This section does not apply to advertising:

(1) In any facility where vending machines and self-service displays are